

ASSEMBLY BILL

No. 1574

**Introduced by Committee on Elections and Redistricting (Fong
(Chair), Coto, Mendoza, Saldana, and Swanson)**

March 17, 2009

An act to amend Sections 9162, 9286, 10229, 14275, and 14293 of, and to repeal Sections 14225 and 14277 of, the Elections Code, and to amend Section 4716 of the Health and Safety Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1574, as introduced, Committee on Elections and Redistricting. Elections.

(1) Under existing law, ordinances may be enacted by any county and a proposed ordinance may be submitted by the county board of supervisors to the voters within a county. Existing law also permits the voters in a county to submit a proposed ordinance or a proposal to enact, amend, or otherwise revise a county charter to the board of supervisors for that county. The board of supervisors may also submit to the voters, without a petition, an ordinance for the repeal, amendment, or enactment of any ordinance. Under existing law, when a county measure qualifies for a place on the ballot, arguments for or against the county measure may be submitted to the voters of the county. An argument for or against a county measure may be submitted by the board of supervisors, any member of the board of supervisors who is authorized by the board to submit an argument, an individual who is eligible to vote on the measure, or a bona fide association of citizens.

This bill would delete the requirement that a member of the board of supervisors be authorized by the board to submit an argument for or against a county measure. The bill would instead provide that an

argument for or against a county measure may be submitted by the board of supervisors, any member of the board of supervisors, an individual who is eligible to vote on the measure, or a bona fide association of citizens.

(2) Existing law specifies deadlines for submitting arguments for printing in the sample ballot and sets a time limit for public examination of the ballot materials. The law provides an exemption for a consolidated city election.

This bill provides that the exemption for a consolidated city election applies to the time limitation for submitting ballot arguments.

(3) Existing law sets forth procedures for municipal elections and requires that all nomination papers be filed with the city elections official during regular business hours, as posted, no later than the 88th day before the election and specifies procedures if by 5 p.m. on the 88th day before the election, no one or only one person has been nominated for an office or the number of nominated persons is less than the number of at-large offices to be filled.

This bill would revise these provisions, changing the 5 p.m. deadline to the close of regular business hours, as posted.

(4) Existing law requires a voter to deliver his or her voted ballot to a member of the precinct board, who then, in the presence of the voter, deposits the ballot in the ballot box.

This bill would instead require a voter to deposit his or her voted ballot in the ballot box.

(5) Existing law, the county sanitation district act, provides for the formation of county sanitation districts. The act requires election precincts to be established by the board of supervisors, and the appointment of precinct boards, composed of one inspector, one judge, and one clerk. It also requires notice of the election to be given by publication in a newspaper of general circulation in the proposed district. In other particulars the act requires the election to be conducted in the manner ordered by the board of supervisors.

This bill would delete these election provisions and instead require election precincts to be established, precinct boards to be appointed, and the date by which to submit ballot arguments determined and noticed pursuant to specified provisions of existing law regarding elections. It would also require the election to be conducted in the manner set forth by the general election laws of the state.

By increasing the duties of local officials, the bill would impose a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9162 of the Elections Code is amended
2 to read:

3 9162. (a) The board of supervisors or any member or members
4 of the board ~~authorized by the board~~, or any individual voter who
5 is eligible to vote on the measure, or bona fide association of
6 citizens, or any combination of these voters and associations may
7 file a written argument for or against any county measure. No
8 argument shall exceed 300 words in length. The county elections
9 official shall cause an argument for and an argument against the
10 measure, and the analysis of the measure, to be printed, and shall
11 enclose a copy of both arguments preceded by the analysis with
12 each sample ballot. The printed arguments and the analysis are
13 “official matter” within the meaning of Section 13303.

14 ~~The~~

15 (b) *The* following statement shall be printed on the front cover,
16 or if none, on the heading of the first page, of the printed
17 arguments:

18 “Arguments in support of or in opposition to the proposed laws
19 are the opinions of the authors.”

20 ~~Printed~~

21 (c) *Printed* arguments submitted to voters in accordance with
22 this section shall be titled either “Argument In Favor Of Measure
23 _____” or “Argument Against Measure _____,” accordingly, the
24 blank spaces being filled in only with the letter or number, if any,
25 which designates the measure. At the discretion of the county
26 elections official, the word “Proposition” may be substituted for
27 the word “Measure” in the titles. Words used in the title shall not
28 be counted when determining the length of any argument.

1 SEC. 2. Section 9286 of the Elections Code is amended to read:

2 9286. (a) Based on the time reasonably necessary to prepare
3 and print the arguments and sample ballots and to permit the
4 10-calendar-day public examination as provided in Article 6
5 (commencing with Section 9295) for the particular election, the
6 city elections official shall fix a date 14 days from the calling of
7 the election as a deadline, after which no arguments for or against
8 any city measure may be submitted for printing and distribution
9 to the voters, as provided in this article. Arguments may be changed
10 or withdrawn by their proponents until and including the date fixed
11 by the city elections official during the normal business hours of
12 the elections official's office, as posted.

13 (b) ~~This section~~ *The requirement in subdivision (a) that the*
14 *period for submitting arguments for inclusion with the sample*
15 *ballot materials must be 14 days from the calling of the election*
16 *is not applicable when the election is consolidated with another*
17 *election pursuant to Part 3 (commencing with Section 10400) of*
18 *Division 10.*

19 SEC. 3. Section 10229 of the Elections Code is amended to
20 read:

21 10229. (a) If, ~~by 5 p.m. on~~ the 88th day, *during normal*
22 *business hours as posted*, prior to the day fixed for a regularly
23 scheduled municipal election or the 83rd day *before the election,*
24 *during normal business hours as posted*, if an incumbent fails to
25 file pursuant to Section 10225, (i) no one or only one person has
26 been nominated for any office ~~which~~ *that* is elected on a citywide
27 basis, or (ii) no one or only one person is nominated to be elected
28 from or by a legislative district, or (iii) in the case of any office or
29 offices to be elected at large, the number of persons who have been
30 nominated for those offices does not exceed the number to be filled
31 at that election; or, if, by the 88th day, during normal business
32 hours; as posted, before a municipal election to fill any vacancy
33 in office, no one; or only one person has been nominated for any
34 elective office to be filled at that election, and the election is subject
35 to Section 36512 of the Government Code, the city elections
36 official shall submit a certificate of these facts to the governing
37 body of the city and inform the governing body of the city that it
38 may, at a regular or special meeting held before the municipal
39 election, adopt one of the following courses of action:

40 (1) Appoint to the office the person who has been nominated.

1 (2) Appoint to the office ~~any~~ *an* eligible elector if no one has
2 been nominated.

3 (3) Hold the election, if either no one; or only one person has
4 been nominated. The city elections official shall publish a notice
5 of the facts described in this section and the courses of action
6 available under this subdivision. Publication shall be made pursuant
7 to Section 6061 of the Government Code in any newspaper of
8 general circulation as designated by the city elections official.

9 After the fifth day following the date of posting or publication,
10 the governing body of the city may make the appointment or direct
11 an election to be held in the affected territory. The person
12 appointed, if any, shall qualify and take office and serve exactly
13 as if elected at a municipal election for the office.

14 Notwithstanding Section 10403, if, by the 75th day before the
15 municipal election, no person has been appointed to office pursuant
16 to paragraph (1) or (2), the election shall be held.

17 (b) Subdivision (a) shall not apply if, at the regularly scheduled
18 municipal election, more than one person has been nominated to
19 another city office to be elected on a citywide basis or; a city
20 measure has qualified and is to be submitted to the voters at that
21 municipal election.

22 (c) Notwithstanding Chapter 1 (commencing with Section 8600)
23 of Part 3 of Division 8, or any other provision of the law to the
24 contrary, if the governing body of a city makes an appointment
25 pursuant to subdivision (a), the elections official shall not accept
26 for filing any statement of write-in candidacy that is submitted
27 after the appointment is made.

28 (d) Nothing in this section shall be construed to prevent a city
29 from enacting an ordinance pursuant to Section 36512 of the
30 Government Code, requiring that a special election be held, or
31 from enacting an ordinance pursuant to Section 36512 of the
32 Government Code, providing that a person appointed to fill a
33 vacancy on the city council shall hold office only until the date of
34 the special election, or both. Any ordinance or ordinances may
35 allow for appointment consistent with subdivision (a) without
36 requiring or providing for a special election.

37 ~~In the event that~~

38 *If* an appointment to office is made in a particular legislative
39 district pursuant to subdivision (a), that appointment shall not

1 affect the conduct of the municipal election in other legislative
2 districts of the city.

3 SEC. 4. Section 14225 of the Elections Code is repealed.

4 ~~14225. Members of the precinct board shall not deposit in the~~
5 ~~ballot container any ballot from which the slip containing the~~
6 ~~number of the ballot has not been removed by a member of the~~
7 ~~precinct board and handed to the voter. This section does not apply~~
8 ~~to voting by absent voter ballot.~~

9 SEC. 5. Section 14275 of the Elections Code is amended to
10 read:

11 14275. Before leaving the voting booth or compartment, the
12 *a* voter shall fold or place the ballot card in the envelope so that
13 the ballot markings of the voter will not be exposed, and the ballot
14 stub will be outside of the envelope or other container, ~~to be~~
15 ~~removed by the precinct board.~~

16 SEC. 6. Section 14277 of the Elections Code is repealed.

17 ~~14277. The voter shall hand the folded ballot or the envelope~~
18 ~~containing the ballot to a precinct board member, who shall remove~~
19 ~~the ballot stub, hand it to the voter, and deposit the ballot in the~~
20 ~~ballot container. If the ballot is to be transferred from the envelope~~
21 ~~to the ballot container, care shall be taken not to disclose the~~
22 ~~markings of the voter on the ballot.~~

23 SEC. 7. Section 14293 of the Elections Code is amended to
24 read:

25 14293. Having folded the ballot, the voter shall ~~deliver it folded~~
26 ~~to a member of the precinct board, who shall then~~ separate the slip
27 *stub, if any,* containing the number from the ballot, ~~hand the slip~~
28 ~~to the voter,~~ and deposit the ballot in the ballot box in the presence
29 ~~of the voter a member of the precinct board. The voter shall take~~
30 ~~precautions to prevent the disclosure of the markings on the ballot~~
31 ~~when depositing the ballot in the ballot box.~~

32 SEC. 8. Section 4716 of the Health and Safety Code is amended
33 to read:

34 4716. At the election only voters registered in the proposed
35 district may vote. ~~Election precincts shall be established by the~~
36 ~~board of supervisors, and precinct boards, composed of one~~
37 ~~inspector, one judge, and one clerk, shall be appointed. At least~~
38 ~~one week prior to the election, notice of the election shall be given~~
39 ~~by publication in a newspaper of general circulation in the proposed~~
40 ~~district. In other particulars the election shall be conducted in the~~

1 ~~manner ordered by the board of supervisors.~~ *Election precincts*
2 *shall be established pursuant to Chapter 3 (commencing with*
3 *Section 12200) of Division 12 of the Elections Code. Precinct*
4 *boards shall be appointed pursuant to Chapter 4 (commencing*
5 *with Section 12300) of Division 12 of the Elections Code. The*
6 *county elections official shall determine the date by which to submit*
7 *ballot arguments and give the notice of this date pursuant to*
8 *Section 9163 of the Elections Code. In all other particulars, the*
9 *election shall be conducted in the manner set forth by the general*
10 *election laws of the state.*

11 SEC. 9. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.